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09/824,105	04/03/2001	Antoon Walter Waldeyer	WALD3001/JEK	9304

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EXAMINER
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JANVIER, JEAN D

ART UNIT	PAPER NUMBER
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3622

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10/18/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

09/824,105

Applicant(s)

WALDEYER, ANTOON WALTER

Examiner

Jean Janvier

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 9/20/07.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 4-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 09/20/2007 has been entered and a Non-Final Action follows.

**Response To Applicant's Arguments**

First of all, and as a matter of principle, the Examiner only addresses pending issues or rejections that are currently incorporated into the Office Action. Having said that, the Applicant's remarks regarding the 112(1) and 112(2) Rejections are null and void.

Moreover, regarding the "General Comments", although the Applicant's statement with respect to the involvement of the call originator may be true, however, claim 1, for example, only recites an agreement between the data processing facility and the call receiver and the call originator is left out of the loop.

Second of all, Applicant's arguments are based on the newly amended claims and are fully addressed in the Office Action.

Furthermore, the Applicant argues, inter alia, that the fund-raising activities featured by the Examiner including the "Official Notice" do not disclose or suggest any aspect of the claimed invention wherein **a payment/donation to a receiving party is caused automatically simply by making a phone call by a call originator**. However, the Examiner notes that the claims or at least independent claim 1 never recites "**automatically providing a payment or**

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**donation to a receiving party or charity when a caller makes a phone call".** In other words, the argued limitation is not necessarily claimed. Further, the notion of providing an automatic payment or real-time payment to a charity when a call is made by a caller does not immediately add up. Indeed, it is the data processing facility (telecommunication service) that charges the extra amount to the caller when a call is made and the extra amount (donation) is temporarily held or stored by the data processing facility (for a later batching) before being transferred, for example, to a bank account of a receiving party (e.g. a charity), as one skilled in the art would have understood. Thus, there is no automatic or real-time payment, per se, to the receiving party when a call is made by a caller or call originator.

Additionally, whether the donated amount is pledged or received instantly/automatically when a call or a purchase is made or simply the timing of the donation is a matter of desires or choice. In fact, the "Giant" example featured by the Examiner in the "Official Notice" depicts a business scheme or fund-raising that collects or provides a donation or payment to a charity when a customer makes a purchase. Here, there is a lot of similarity between a purchase made by a customer and a call by a caller, wherein either the purchase or the call triggers a donation to a receiving party (hence, no call, no payment/donation-no purchase, no payment/donation).

It appears also that the new claim language "...once said connection is generated, disconnecting said connection" does not help clarify the claimed invention.

Therefore, the Applicant's request for allowance or withdrawal of the last Office Action has been fully considered and respectfully denied in view of the foregoing response since the Applicant's arguments as herein presented are not plausible.

#### **DETAILED ACTION**

### **Specification**

### **Claim Status**

Claims 1-18 are currently pending in the Application. Claims 1-3 and 18 are being examined, while claims 4-17 have been withdrawn from further consideration.

### **General Comments**

Regarding the new claim language "...once said connection is generated, disconnecting said connection", it is greatly expected here that the connection will be terminated at some point in time by the caller upon successfully completing his call, as one skilled in the art would have concluded. And it appears that the new claim language does not affect the claimed invention in any significant manner.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claim 1 (including its dependent claims) is rejected under 35 USC 112(2) for missing critical elements or a lack of clarity. Indeed, the metes and bounds of the new claim language "...and once said connection is generated, disconnecting said connection" are not defined or understood. If the system is configured to immediately disconnect once a connection is established, then there was no purpose for calling the receiver via the telecommunication service (data processing facility) in the first. As herein understood, the system provides a sponsorship for the telecommunication service by encouraging callers to use the service while providing payments/donations to the their charities when making those calls.

**The following is a quotation of the first paragraph of 35 U.S.C. 112:**

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 1 (including its dependent claims) is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. **In fact, it appears that the new claim language, "...and once said connection is generated, disconnecting said connection", is not supported in the specification.**

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ziarno, US 2001/0001855.

As per claims 1-3 and 18, Ziarno discloses a method of and a system for conducting a fund-raising over a computer network, such as the Internet, while simplifying and inducing the giving of monetary contributions by a plurality of contributors or donors. The system is configured to solicit the making of monetary contributions by the plurality of contributors or donors via their computers and to receive data comprising of contribution records from the

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remote contributors over the computer network. Here, contributions include political contributions, charitable contributions and religious contributions. The soliciting or requests for monetary contribution is performed via multimedia communicated to prospective contributors' computers connected to the computer network (See abstract).

The present system provides a fund-raising network, system and method for simplifying and inducing the giving of monetary contributions by a multiplicity of prospective contributors. The system and network include a computer with communication circuitry for communicating over a computer network requests for soliciting the making of monetary contributions to a plurality of remote prospective contributors' computers; and, a means for receiving contributions from the remote contributors' respective computers communicated over a computer network. The contributions data, received from a prospective contributor, include the prospective or **respective contributor's cardholder information (credit card, debit card data) correlated to numeric contribution amounts, cybercash**, information representative of electronic currency, and combinations thereof (bottom of page 1, paragraph [0010]; page 5, paragraphs [0054] and [0055]).

A typical solicitation or prospective contributor's e-mail contribution request or has a display option or icon that represents a specific denomination amount, e.g. five dollars (\$5) or ten dollars (\$10). The specific denomination amount appearing on a respective contributor's screen is of an order to induce the making of a contribution in a variant (allowing the prospective donor to choose from a variety of options representing selection of different action-specific amounts.... -page 6: paragraphs [0059] and [0060]; page 8: paragraph [0078]).

As per claims 1-3 and 18, Ziarno does not disclose a system, wherein a contributor or donor uses a telephone set, instead of or in addition to a computer, to participate in the fund-raising activities, wherein a portion of the price charged to the contributor (call originator) when making a phone call to a third party or call receiver, including a charitable organization, is donated to the third party or receiver upon disconnecting or terminating the phone call (subsequent to terminating the phone connection).

However, it is common practice in the art to use a wired or wireless telephone to participate in a fund-raising activity, which raises money on behalf of a specific non-profit organization. For example, a Public Broadcasting Station (PBS), such as a television station, usually conducts an annual fund-raising by soliciting the making of monetary donations from its viewers, who use their telephones to respond by donating a specific monetary value set by the station or a value of their choosing. The donors or contributors receive thank-you gifts from the station or from other third parties for making donations.

Moreover, it is common practice in the industry for businesses or retailers (providers), such as **Giant Food**, to encourage their customers to support their stores by donating a certain percentage of the customers' transaction amount to schools or non-profit organizations previously selected. In addition, advertisers, sponsors or service providers periodically, especially after a disaster such as a flood, fire or hurricane to name a few, run a special promotion for a particular product or service by promising to donate a certain amount of money associated with a customer's purchase of the advertised product or service to the RED CROSS or other non-profit organizations in an effort to help the victims.



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Additionally, and in general, the manner in which a merchant sets up a selling price or charging for a product or service is a matter of desires. It is also well known in the art for a merchant or service provider, such as a telephone service provider or telecommunication provider, to set up a selling price for a product or service, such as a phone call, by adding a purchase price and overhead cost to a desired profit margin.

Further, the manner in which a service provider or a telecommunication provider, such as a telephone company, chooses to raise funds or make a donation to a charitable organization using the telecommunication service system is a matter of desires.

Moreover, it is well established in the art that a service provider, such as a telecommunication service provider or a telephone company, to make a donation to one or more charities using a portion of the funds (revenue) collected from subscribers for making phone calls to third parties or receivers.

Finally, it is well understood that the donation or payment triggered by the donator's or originator's phone call will be provided or transferred to the receiver at some point in time after the phone call is terminated (or upon disconnecting the phone connection)

"Official Notice"

Therefore, an ordinary skilled artisan would have been motivated at the time of the invention to incorporate the above disclosure ("Official Notice") into the Ziarno's fund-raising system so as to expand the system by enabling users of regular analog or fixed phones and mobile devices, instead of or in addition to the remote personal computers, to interactively participate in the fund-raising activities by contributing or donating monetary amounts selected

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from a plurality of preset thresholds or by entering different amounts of their choosing, whenever they call a receiving party including a charity or fund-raiser via a telecommunication service or data processing facility or service provider, and by permitting the service provider (telephone or the telecommunication company/service) or data processing entity, providing the communication link or facilitating the users or subscribers to make phone calls via the telecommunication system, to donate to one or more charities (receivers) a portion of the revenue collected from the subscribers for making phone calls to one or more third parties/receivers (charities) including the third party fund-raisers, thereby significantly increasing the number of donors or subscribers participating in the fund-raising activities, over the computer network and telecommunication network, by pledging or donating money in substantially real-time to their charities using their existing communication devices such as analog or mobile devices and augmenting the total amounts pledged or donated by allowing the telecommunication provider (telephone service provider) to contribute to the fund raising activities by donating to one or more charities (receivers) a portion of the revenue collected from the subscribers when making phone calls to one or more third parties/receivers (charities), while the service provider is able to advertise his involvement in the fund raising activities to lure or bring more prospective users to the telecommunication network and project a good PR (Public Relation) in the community.

### **Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US PGPub 2002/0049816 discloses a fundraising system and method that allows users to raise money from friends and other entities over a distributed network, such as the Internet, is

presented. The present invention provides online marketing applications for e-businesses by using the power of viral marketing to enable clients to attract new customers at a lower cost, and build brand loyalty. For example, the fundraising system of the present invention enables e-businesses to partner with causes, such as charitable, non-profit and community organizations, to host fundraising events online with interactive participation by all involved. For example, an e-mail networking component may enable fund-raisers to send out an infinite amount of requests supporting the cause they care about. Thus, for every fund-raiser, the host e-business gets a new flow of visitors to their site.

USP 2005/0240433 to Schwartz discloses a system and method for efficiently conducting a fundraising campaign over a wide-area network. In accordance with the invention a method for conducting an efficient fundraising campaign by an organization over a wide-area network includes the steps of hosting a website including a plurality of linked web pages, the website soliciting potential donors to make a charitable contribution to the fundraising campaign, registering, by the donors, on the website, making a charitable donation on the website, contacting third parties via email messages soliciting charitable donations, and providing one or more reports, on the website, including information on the status of the fundraising campaign. The method further comprises the step of contacting third parties, via email messages, to provide information about one or more teams participating in a competition associated with the fundraising campaign. The method further comprises the step of providing information, in the reports, about the third parties that have been contacted via email messages. The method further comprises the step of providing, in the reports, a real time status of the fundraising campaign, and wherein the real time status provide a convenient means for monitoring the progress of the

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campaign. The method further comprises the step of joining a team, on the website, to participate in the fundraising campaign. The method further comprises the step of forming a new team, on the website, to participate in the fundraising campaign. The method further comprises the step of recruiting new team members by email messages.

USP 2001/0026609 to Weinstein discloses a method and apparatus for facilitating web-initiated communication by telephone, providing for both anonymous and non-anonymous communication, which allows users to contact each other through a trusted central connecting facility provides breakthroughs in personal control, privacy, and safety for people communicating over the telephone. All calls are incoming calls, both to callers and call recipients. Users may control what time windows they can receive calls from other users, on an individual basis. Billing for professional services delivered over the phone may be done automatically through the call delivery system. Both one-to-one and group calls are provided. An auction feature allows customers to bid for phone time with desired personalities. Calls may be scheduled to happen automatically at pre-arranged times. Use of PIN codes prevents unintended recipients from receiving a call. Users may generate temporary contact number cards which can be given out to people they meet, such that calling access will be controllable and traditional contact information (such as phone number and address, full name, etc.) can be kept private. Users may sign up for paid accounts or free accounts. Free accounts may only receive calls and make collect calls. Applications include dating websites, on-line greeting cards with a phone call contained, phone connection during on-line chat, customer service, time-controlled phone contact for on-line auctions, supplemental long-distance and international calling, and fund-raising.

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Any inquiry concerning this communication from the Examiner should be directed to Jean D. Janvier, whose telephone number is (571) 272-6719. The aforementioned can normally be reached Monday-Thursday from 10:00AM to 6:00 PM EST. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Mr. Eric W. Stamber, can be reached at (571) 272- 6724.

Non-Official- 571-273-6719.

Official Draft : 571-273-8300

10/11/07

JDJ

Jean D. Janvier

Patent Examiner

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JEAN D. JANVIER  
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read "Jean D. Janvier", written over the printed name and title.